

REMARKS

In the Office Action of March 4, 2004, claims 1-4 and 10-16 were rejected under 35 USC 102(a) as being anticipated by U.S. Patent 5,570,552 to Nehring ("Nehring"). Also, Claims 1, 2 and 5-9 were rejected under 35 USC 102(e) as being anticipated by U.S. Patent 6,293,067 to Meendering ("Meendering"). Finally, Claims 54-56 were rejected under 35 USC 103(a) as being unpatentable over Nehring in view of U.S. Patent 2,399,666 to Een ("Een").

In response to the aforementioned rejections, Applicant offers the preceding amendments and the following remarks. Applicant respectfully asserts that the claims, as now amended, are patentable over the art of record. A notice of allowance is respectfully requested.

35 USC 102 Rejections

As stated in the 37 CFR 1.132 Declaration of Stephen P. Samaha that accompanied Applicant's Amendment and Response of December 3, 2003, the term "load-bearing" is a well-known term of art in the fields of construction, structural engineering, and architecture. Load-bearing is defined as being "capable of bearing a structural load"¹ or "supporting a superimposed weight or force."² In the Office Action of March 4, 2004, the examiner concurs with this definition, but argues that the claims do not set forth the parameters of the load. Specifically, the examiner argues that the language "to support a superimposed structural load in addition to the loads imposed by fellow blocks located in higher block courses" is not recited in the claims.

Applicant still respectfully disagrees with the examiner's assertions and respectfully submits that the term "load-bearing" adequately distinguishes Applicant's claimed invention from the likes of Nehring and Meendering, both of which teach foamed plastic wall forms that

¹ see definitions at: Dictionary.com at <http://dictionary.reference.com/search?q=load-bearing>; WordNet 1.7 Vocabulary Helper at <http://poets.notredame.ac.jp/cgi-bin/wn?cmd=wn&word=load-bearing>; Ultralingua.net at http://ultralingua.net/results.html?lookup_action=en|english|English&lookup_letters=load-bearing; Lookwayup.com at http://lookwayup.com/lwu.exe/lwu/d?t=&h&s=f&b=&w=load-bearing&pos=a&Syn_ID=. Copies of these web pages are provided in Appendix A of Amendment & Response dated 12-03-2003.

² see definitions at: National Contractor Referrals at <http://www.contractorreferral.com/cgi-bin/glossary.pl?TERM=L>. A copy of this web page is provided in Appendix A of Amendment & Response dated 12-03-2003.

would not be considered “load-bearing” by one skilled in the art. However, to expedite allowance of the pending claims, Applicant has amended independent claim 1 to recite:

[a] discrete, preassembled, composite modular block for independent placement with other laterally and vertically adjacent blocks to form a wall structure of stacked block courses, the block comprising:

a. an outer wall and an inner wall, wherein at least one of said walls is made from a first masonry-type material and is vertical load bearing such that said wall can support loads superimposed on the wall structure in addition to loads imposed by higher block courses.

Clearly, neither Nehring nor Meendering disclose, teach or suggest a block used to form a wall structure of stacked block courses and having at least one wall made of a masonry-type material and being vertical load bearing such that said wall can support loads superimposed on the wall structure in addition to loads imposed by higher block courses. For at least these reasons, Applicant respectfully requests that the 35 USC 102 rejections based on Nehring and Meendering be reconsidered and withdrawn.

35 USC 103 Rejections

Nehring’s and Meendering’s deficiencies, as explained in the preceding section, are not remedied by being combined with Een. For example, Een is a door and, like all doors, must be hung within a header. Therefore, Een does not teach or suggest load-bearing.

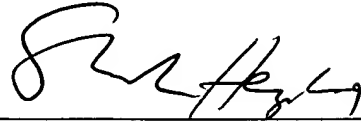
Een does not teach or suggest a “weep gap” as would be understood by one skilled in the art. Furthermore, Een does not teach or suggest, as recited in Applicant’s claim 55, a block “wherein the partitioning panel is placed closely adjacent the outer wall so as to define a weep gap between the panel and the outer wall, said weep gap extending substantially the full width of the outer wall.” For at least these reasons, Applicant respectfully requests that the 35 USC 103 rejections based on the combination of Nehring and Een be reconsidered and withdrawn.

This application now stands in allowable form and reconsideration and allowance are respectfully requested.

Respectfully submitted,

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